

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Structure and Practices of the Video Relay	)	CG Docket No. 10-51
Service Program	)	
	)	
	)	
Telecommunications Relay Services and Speech-	)	CG Docket No. 03-123
To-Speech Services for Individuals with Hearing	)	
And Speech Disabilities	)	

**COMMUNICATION SERVICE FOR THE DEAF, INC. REPLY TO COMMENTS**

March 30, 2012

## **I. Introduction**

Communication Service for the Deaf, Inc. ("CSD") submits this reply in response to the Federal Communications Commission's ("FCC" or "Commission") Further Notice of Proposed Rulemaking ("FNPRM") on the Structure and Practice of the Video Relay Service Program and Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket Nos. 10-51 and 03-123 (rel. December 15, 2011).

CSD is a national private, non-profit organization that provides programs and services that increase communication, independence, productivity, and self-sufficiency for all individuals who are deaf and hard of hearing. Due to CSD's close relationships in working with and for the deaf and hard of hearing communities, CSD has a specialized understanding of the unique communication needs of deaf and hard of hearing people.

## **II. Executive Summary**

CSD extends its appreciation to the Commission for its leadership and commitment to continuing to advance "functional equivalence" by working to remove the remaining barriers to effective modes of communication for all Deaf, Hard-of-Hearing, and Speech Disabled individuals. Through the subsidy of broadband services, a key roadblock to functional equivalence can be removed.

There are several main points that CSD wishes to advance in this reply to comments and to the FCC's NPRM. CSD believes that a broadband subsidization program needs to be available for all eligible deaf, hard of hearing, and individuals with speech disabilities regardless of their sign language usage or fluency because many current modes of communication are available only through broadband connectivity. With CSD's experience in providing broadband subsidization to the deaf community through Project Endeavor, there are several key issues that CSD has identified in this reply that the FCC may wish to consider as the FCC explores the possibility of setting up a similar broadband subsidy program. For example, due to the cultural and linguistic barriers that still exist through traditional relay services for many deaf consumers, direct access to information about the program offerings should be a key part of any program serving this population.

## **III. Broadband Subsidization**

The implementation of a TRS Broadband Pilot Program (TRSBPP) would assist the FCC in ensuring that the national need for broadband in order to communicate, including critical communications with emergency ("911") services, are met for deaf, hard of hearing, and individuals with speech disabilities. It is well documented that broadband affords the type of communication access that are currently relied upon by deaf, hard of hearing, deaf-blind, and individuals with speech disabilities. Traditional landlines are not in use by those individuals due to its inherent limitations and general inability to keep this population on par with other technological advances available to the general public.

In October of 2008, CSD as a member of the Coalition of Organizations for Accessible Technology (COAT) signed on to a Petition for Rulemaking Supporting Broadband Access for Users of Video and IP-Based Communications Who are Deaf, Hard of Hearing, Late Deafened, or Deaf Blind, or Who Have a Speech Disability ("COAT Petition"). The COAT Petition set forth many key points related to the need for a subsidy, such as currently being considered, the need for inclusiveness of different modalities of communication, and a broad eligibility base. CSD respectfully would like to take this opportunity to reinforce its continued support for several of these key points.

Many different modalities of communication for the Deaf, Hard of Hearing, Late Deafened, Deaf Blind, or Speech Disabled benefit from broadband access. “An estimated 37 million people in the United States (17%) have difficulty hearing <sup>1</sup> including 1 million who are unable to hear a conversation at all<sup>2</sup>”.<sup>3</sup>

“In addition, one-third of Americans between the ages of 65 and 74, and almost half of those over 86, report having hearing difficulties. <sup>4</sup> These adults generally do not use ASL and typically are able to speak clearly, even though they have difficulty hearing over the phone. As a result, they benefit greatly from access to captioned telephone services (CTS) and IP CTS <sup>5</sup>”.<sup>6</sup>

“Internet-based communications also make telephone service possible for many Americans who are deaf-blind. Deaf-blind individuals have varying degrees of impairment of both the auditory and visual senses. <sup>7</sup> Although it is difficult to estimate the number of deaf-blind individuals in the United State because of the wide variation in the extent of these individuals’ hearing and vision disabilities, such estimates conservatively start at 42,000 and, according to some sources, climb into the hundreds of thousands. <sup>8</sup> People who are deaf-blind communicated in a variety of ways, and a significant number are able to use existing IP-based relay services. <sup>9</sup> For these individuals, access to Internet-based broadband services, including video communication, is a critical component of being able to communicate with the rest of the world.”<sup>10</sup>

1) Pleis JP, Lethbridge-Cejku M. Summary health statistics for U.S. adults: National Health Interview Survey, 2006. Tables 11 and 12. National Center for Health Statistics. Vital Health Stat 10(235). 2007.

2) Erika Steinmetz, Current Population Reports in Americans with Disabilities: 2002, Household Economic Studies, U.S. Census Bureau, Table A (issued May 2006), available at: <<http://www.census.gov/prod/2006pubs/p70-107.pdf>> (“Household Census”)(estimating number of persons 15 years and older who (1) had difficulty hearing a conversation or (2) were unable to hear).

3) COAT Petition, Page 4 (footnote numbering changed from original).

4) A study by the EAR foundation and Clarity found that nearly half of the 76 million Baby Boomers in the U.S. are experiencing some degree of hearing loss. National Institute on Aging, “Hearing Loss” available at: <http://www.nia.nih.gov/HealthInformation/Publications/hearing.htm>; see also National Institute on Deafness and Other Communication Disorders, “Hearing Loss and Older Adults,” available at <http://www.nidcd.nih.gov/health/hearing/older.asp>.

5) Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Internet-based Captioned Telephone Service, Declaratory Ruling, 22FCC Rcd 379, ¶¶7-9, 14-15 (2007)(IP CTS Declaratory Ruling). Although IP CTS does not require speeds as high as that required by video communications, it does require a broadband connection to work seamlessly. See Northern Virginia Resource Center, Education and Outreach, available at: <http://www.nvrs.org/content.aspx?page=16765&section=7> (last visited July 18, 2008).

6) COAT Petition, Page 5 (footnote numbering changed from original)

7 Orientation to Deaf-Blind, Todd R. Olsen. Available at <http://www.geocities.com/dblnj/dbreport.html>

8 A study commissioned by the Department of Education in 1980 estimated that between 42,000 and 700,000 individuals have some level of both vision and hearing loss. See Turkington, Carol and Allen E. Sussman, eds. (2000). The Encyclopedia of Deafness and Hearing Disorders, second edition. New York: Facts on File, inc. p.62, cited at [http://library.gallaudet.edu/Library/Deaf\\_Research\\_Help/Frequently\\_Asked\\_Questions](http://library.gallaudet.edu/Library/Deaf_Research_Help/Frequently_Asked_Questions) (FAQs)/Statistics\_on\_deafness/Deaf-Blind\_in\_the\_US.html. See also, Barbara Miles, “Overview on Deaf-Blindness,” 2000, available at <http://www.tr.wou.edu/dblink/-overview.html>, which estimates that there are 45,000-50,000 deaf-blind individuals in the United States.

9) Comments of the American Association of the Deaf-Blind to Petition for Clarification of Hawk Relay Concerning the Provision of Deaf-Blind Relay Service (DBRS), CG Docket No. 03-123 (February 4, 2008).

10) COAT Petition , Page 7 (footnote numbering changed from original).

“Internet-based communications also makes telephone service possible for an estimated 2.6 million people who have difficulty speaking, including approximately 610,000 individuals reporting severe difficulty speaking.”<sup>11</sup> Although many of these individuals do not use ASL, they would nonetheless benefit enormously from access to video communications, which would facilitate conversation by enabling peer-to-peer video call recipients to see gestures, facial expressions, and other visual communication cues to better understand what the person with a speech disability is saying.<sup>12</sup> Users of speech-to-speech (STS) relay service also would benefit from the addition of video to that service, which would enable the communications assistant (CA) to detect and use visual cues to better assist the user in making calls. Like other segments of the target population who need broadband access to communication, people with speech disabilities will benefit significantly from being able to access Internet-based communication services in their employment, education, recreation and other aspects of their lives.”<sup>13</sup>

For such a program to truly meet broadband-based communication access needs, its eligibility criteria should strive to include as many people as possible rather than to exclude.

#### A. Hearing Loss Requirements

CSD believes that broadband access for each of these segments of the target population is critical to achieving the statutory mandate of “functional equivalency.”<sup>14</sup> Therefore, CSD believes that a broadband subsidy program, such as that being considered by the Commission, should include deaf, hard of hearing, late deafened, deaf blind, or individuals with a speech disability, and not just those users fluent in ASL.

#### B. Income Level Requirements

Additionally, with regard to the financial aspect of eligibility for subsidized broadband, CSD encourages the Commission to base eligibility on criteria established for the target population, without a requirement of financial hardship.

Should the Commission elect to include financial hardship criteria, CSD recommends defining a financial need threshold similar to that for the National Deaf-Blind Equipment Distribution Program of 400% of the federal poverty guidelines which are periodically updated in the Federal Register through the U.S. Department of Health and Human Services, pursuant to 42 U.S.C. 9902(2).

Due to the special needs and services directly attributed to their disabilities, the target population frequently has out-of-pocket expenses just to accommodate and deal with their various sensory barriers. While the costs associated with accommodating a hearing loss for the late hard-of-

11 Household Census, Table 2 (estimating number of persons 15 years and older who had (1) difficulty with speech or (2) severe difficulty with speech).

12 See, e.g. Comments of Winston Ching, Community Representative, Telecommunications Access for the Deaf and Disabled Administrative Committee, Advisory Committee to California Public Utilities Commission, CG Docket No. 01-123 (July 28, 2008)(speech-to-speech relay service conducted over a video connection “has the potential of significantly increasing the comprehension rate for STS CAs by use of a myriad of visual communication cues including lip reading, spelling in the air, facial expressions, and other physical movements that may facilitate understanding of what persons with speech disabilities are saying”).

13. COAT Petition, pages 7 and 8 (footnote numbering changed from original).

14 47 U.S.C. §225(A)(3) (defining TRS as relay services that provide the ability for an individual with a hearing or speech disability to communicate by wire or radio in a manner that is “functionally equivalent” to the manner in which individuals without a disability communicate by wire or radio using voice services).

hearing may be substantially less than that for a Deaf-Blind individual, a low income limit requirement could limit access to services and have the effect of forcing the target population to navigate yet another barrier. Further, it is long documented that people with disabilities experience higher unemployment rates, leading to the lessened ability to keep up with the basic costs of living, including the costs of broadband access.<sup>15</sup>

### C. Lessons Learned from Project Endeavor

In Appendix A of the FNPRM<sup>16</sup>, the Commission discusses CSD's experience with administering Project Endeavor,<sup>17</sup> a broadband subsidy program established by CSD and funded through the National Telecommunications and Information Administration's Broadband Technology Opportunities program. Through its administration of Project Endeavor, CSD has several "lessons-learned" that it believes are appropriate to share with the Commission directly related to the TRSBPP. Some of these are summarized below as follows:

#### i. Education of and Effective Communication with Deaf Consumers

While relay (in both its text and video form) has been a boon for the deaf and hard of hearing consumers, it still involves another layer that hearing people in general do not experience when dealing with customer service. Further, relay has not been without its own share of issues, some of which include the interpreters' lack of competency in cultural and linguistic knowledge to meet the customer service needs of this population. If the deaf consumer was savvy enough to realize that a certain interpreter was not a good match for his or her own needs, the consumer was forced to endure the "status quo" or ask to be transferred in the hopes of getting a new interpreter that might be able to facilitate communication to their satisfaction.

Thus, one of the core successes from Project Endeavor was the establishment of direct communication with deaf consumers. Such communication was key in order to ensure accurate information and effective communication with this population, accomplished through a first-of-its-kind in customer service where customer service agents fluent in ASL communicated directly with deaf consumers in ASL. Through the provision of direct service to deaf consumers, deaf consumers were able to, for the first time on a large scale, experience customer service at a level truly on par with the customer service received in general by hearing people.

**15. Disability Status and the Characteristics of People in Group Quarters: A Brief Analysis of Disability Prevalence Among the Civilian Noninstitutionalized and Total Populations in the American Community Survey** By Matthew Brault February 2008 available at <http://www.census.gov/hhes/www/disability/GQdisability.pdf>

16. Further Notice of Proposed Rule Making – In the Matter of Structure and Practices of the Video Relay Service Program CG Docket No. 10-51 and Telecommunications Relay Services and Speech- To-Speech Services for Individuals with Hearing And Speech Disabilities CG Docket No. 03-123, Released December 15, 2011.

17. The National Telecommunications and Information Administration (NTIA) administers the Broadband Technologies Opportunities Program (BTOP) pursuant to the American Recovery and Reinvestment Act (Recovery Act). American Recovery and Reinvestment Act of 2009, Pub.L.No. 111-5, 123 Stat. 115, 128 (2009).

Further, as a matter of public policy, by broadening the reach of the customer service industry to include direct access for deaf people, the FCC sets the standard for other businesses and entities to follow. With more companies and businesses adopting a customer service model that also takes into account this population's need, it would have the tangential effect of opening up employment opportunities for deaf people in an industry traditionally closed to them due to the requirement of being able to hear.

ii. Independent Administration of the TRSBPP

CSD is sensitive to the fraud issues that have recently affected the VRS industry and understands the need for the FCC to ensure clear accountability of funds it expends to support communication access for people with disabilities. The implementation of the TRSBPP is one such way for the FCC to ensure that people with disabilities have access to the tools they need for communication access; however, for accountability, an independent entity should be appointed to administer the TRSBPP with FCC oversight.

A reimbursement model under which the VRS provider is compensated for the signing up of an eligible individual has the advantage of motivation to identify those eligible individuals who need broadband services. Conversely, it also has the disadvantage of encouraging alternative methods to generate revenue as the competition increases for the declining number of broadband-less individuals and to "lock in" consumers to one choice/provider. CSD supports the LifeLine model for telephone subsidies used in states such as California and Texas where an independent entity is responsible for the verification and enrollment of consumers. Such an independent entity administering the TRSBPP would remove that potential for fraud and empower consumers by allowing them true freedom of choice in the service or provider they may wish to use. However, to truly serve the function and purpose of the TRSBPP, such an independent entity must have the cultural and linguistic awareness in order to effectively serve deaf, hard of hearing, and individuals with speech disabilities to avoid miscommunication and inefficiency.

iii. TRSBPP Service Offerings that are Relevant and Flexible

CSD wishes to also point out that program or service offerings under the TRSBPP must take into account the specific needs of the deaf, hard of hearing, and individuals with speech disabilities. In light of the broadband industry response to increased data usage, it must be ensured that broadband offerings under TRSBPP are not under data caps that would prevent this population from being able to communicate through broadband effectively.

Broadband differs from traditional phone service in that broadband service is the foundation for multiple modalities of communication and data exchange. A typical modern household may simultaneously utilize broadband for phone, television, Internet, and video communication. Therefore, the TRSBPP subsidy should allow consumers to select broadband service offerings at various levels of price and bandwidth, and provide them the flexibility to change their selection over time to take advantage of future service bundles or new features. Given that a single broadband connection may serve an entire household, the TRSBPP subsidy should take into consideration that high bandwidth service offerings may be selected by the consumer to ensure that video or other necessary communication is possible while the broadband connection is utilized for other purposes. It is CSD's recommendation that the TRSBPP subsidy be offered as one flat, fixed amount to accommodate any variations in prices and offerings that exist now and in the future, and would continue to allow the empowerment of the consumer in making their own choices.

#### **IV. Conclusion**

CSD again extends its appreciation to the Commission for its leadership and commitment to continuing to advance “functional equivalence” by working to remove the remaining barriers to effective modes of communication for all Deaf, Hard-of-Hearing, and Speech Disabled individuals.

CSD believes that a broadband subsidization program needs to be available for all eligible deaf, hard of hearing, and individuals with speech disabilities regardless of their sign language usage or fluency. Further, due to the cultural and linguistic barriers that still exist through traditional relay services for many deaf consumers, direct access to information about the program offerings should be a key part of any program serving this population

Additionally, with regard to the financial aspect of eligibility for subsidized broadband, CSD encourages the Commission to base eligibility on criteria established for the target population, without a requirement of financial hardship. Should the Commission elect to include financial hardship criteria, CSD recommends defining a financial need threshold similar to that for the National Deaf-Blind Equipment Distribution Program of 400% of the federal poverty guidelines

Respectfully submitted,

By: Mark A. Ekse  
Hagen, Wilka and Archer, LLP  
600 S. Main Avenue, Suite 102  
Sioux Falls, SD 57104  
mark@hwalaw.com

On Behalf Of:  
Communication Service For The Deaf, Inc.  
102 N. Krohn Place  
Sioux Falls, SD 57103  
www.c-s-d.org